

REMARKS

Claims 1 and 18 – 21 have been amended. No claims have been cancelled or added. Claims 10 – 17 and 32 – 39 are withdrawn. Hence, claims 1 – 9, 18 – 31 and 40 – 44 are pending in the Application.

SUMMARY OF REJECTIONS/OBJECTIONS

Claims 1 and 18 are objected to as being substantial duplicates of each other.

Claims 1 – 8 and, as best as Applicant can discern, claims 18 – 22 are rejected under 35 USC 101 as allegedly being directed to non-statutory subject matter.

Claims 1 – 6, 18 – 28 and 32 – 39 are rejected under 35 USC 102(b) as being anticipated by "Bridge" (U.S. Patent No. 6,272,503).

Claims 7 – 9 and 29 – 31 are rejected under 35 USC 103(a) as being unpatentable over Bridge in view of Want (U.S. Patent No. 5,758,345).

OBJECTION – DUPLICATE CLAIM

The Office Action objected to claims 1 and 18 as being substantial duplicates of each other. Below is a marked-up version of claim 1 showing differences between it and claim 18.

A method for automatically ~~provisioning~~instantiating ~~database~~ data in a distributed database system, the method comprising computer-implemented steps of:
 a database server causing a ~~tablespace~~set of one or more files to be transported from a first file system to a second file system;
wherein said set of one or more files store data for a database; and
 after transporting said ~~tablespace~~set of one or more files to said second file system, said database server ~~importing~~provisioning said ~~tablespace~~database ~~into~~as a local database managed by said database server.

As is readily apparent from the above, claims 1 and 18 are not substantial duplicates of each other. Removal of the objection is respectfully requested.

REJECTIONS UNDER 35 USC 101

Claims 1 – 8 and claims 18 – 22 are rejected under 35 USC 101 because claims 1 and 18 are allegedly directed to non-statutory subject matter. The Office Action alleges that claim 1 and 18 do not require a useful tangible result.

Claim 1 requires importing said tablespace into a local database managed by said database server. A database, to which data has been imported, and which is managed by a database server, is clearly a useful and tangible thing. Therefore, claim 1 requires a useful and tangible result. For similar reasons, claim 18 requires a useful and tangible result.

The Office Action also indicates that claims 1 and 18 are directed to non-statutory subject matter because the claims cite non-functional descriptive content. However, this is a test used to determine whether data structures or software product claims cite statutory subject matter. Claims 1 and 18 are process claims. Applying this test in this context is not proper.

Based on the foregoing, claims 1 – 8 and claims 18 – 22 cite statutory subject matter. Reconsideration and removal of the rejection is respectfully requested.

REJECTIONS BASED ON 102(E)

Claim 1

Claim 1, recites:

a database server causing a tablespace to be transported from a first file system to
a second file system; and

after transporting said tablespace to said second file system, said database server
importing said tablespace into a local database managed by said database
server.

Claim 1 recites transporting a database server that imports a tablespace into a local database managed by the database server. Importantly, the database server also causes the tablespace to be transported between a first and second file system. This particular way of automatically provisioning a database is not disclosed or in any way suggested by Bridge.

The Office Action alleges that in Bridge the passage at col. 9, lines 41 – 50 teaches these features. In this passage, the Examiner must be correlating the target database to the claimed database server that imports the tablespace. Note the passage describes a source database system that produces a set of files in response to a user providing the name of the files.

Importantly, the user then copies the files "to a place accessible to the target database [sic]." Presumably the user transports the files by manually invoking standard file transfer utilities, such operating system commands or FTP. The passage does not suggest in any way much less disclose that the target database server automatically causes the files to be transported, as claimed.

Based on the foregoing, Bridge fails to teach features of claim 1, and therefore fails to teach all the features of claim 1. Therefore, claim 1 is patentable. Reconsideration and allowance of claim 1 is respectfully requested.

Independent Claim 18

Claim 18, recites a "method for automatically instantiating database data in a distributed database system", comprising
"a database server causing a set of one or more files to be transported from a first file system to a second file system;
wherein said set of one or more files store said database data; and

after transporting said set of one or more files to said second file system, said database server provisioning said database data as at least part of a database managed by said database server."

Claim 18 requires that to automatically instantiate a database, that a **database server** causes a file that stores data for a database to be transported between a first and second file system, and then provisions data as at least part of database managed by a database server. For reasons similar to those discussed with respect to claim 18, the cited art fails to suggest in any way much less disclose this feature of claim 18.

Based on the forgoing, claim 18 is patentable. Reconsideration and allowance of claim 18 is respectfully requested.

REJECTIONS BASED ON 35 USC 103

Claim 7

Claim 7 recites that the "database server provisions a synchronization mechanism that applies changes made to the tablespace to the copy." The Office does not allege that Bridge teaches this feature, but does allege that Wang teaches this feature at the passage at col. 14, line 59 to col. 15, line 10.

As those skilled in the art recognize, terms in computer technology have multiple meanings or senses, like many words of the English language. Synchronization mechanism is one such term. The sense of Wang is different than that required by claim 7.

In Wang, the term's sense is a synchronization mechanism that controls concurrent access to resources such as data. The synchronization mechanism described in the passage is a distributed lock manager that issues locks to synchronize access.

In claim 7, the term's sense is a synchronization mechanism that keeps bodies of data in sync. For example, "synchronization mechanisms can also be automatically provisioned to keep the tablespace and a copy in sync." (Application 0025) A defining feature of such a mechanism is that it "applies changes made to the tablespace to the copy", as claimed. Wang does not teach this kind of synchronization mechanism.

Further, regardless of the type of synchronization mechanism Wang teaches about, it does not teach that a database server provisions the synchronization mechanism. While the fact that there is a synchronization mechanism up and running in Wang may imply that it had been provisioned, it does not necessarily follow that the synchronization mechanism was provisioned by a database server.

Based on the foregoing, Wang and Bridge, alone or in combination, fail to teach features of claim 7, and therefore fail to teach all the features of claim 7. Therefore, claim 7 is patentable. Reconsideration and allowance of claim 7 is respectfully requested.

Remaining Pending Claims

The pending claims not discussed so far are dependant claims that depend on an independent claim that is discussed above. Because each of the dependant claims include the limitations of claims upon which they depend, the dependant claims are patentable for at least those reasons the claims upon which the dependant claims depend are patentable. Removal of the rejections with respect to the dependant claims and allowance of the dependant claims is respectfully requested. In addition, the dependent claims introduce additional limitations that independently render them patentable. Due to the fundamental difference already identified, a separate discussion of those limitations is not included at this time.

For the reasons set forth above, Applicant respectfully submits that all pending claims are patentable over the art of record, including the art cited but not applied.

Accordingly, allowance of all claims is hereby respectfully solicited.

The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP



Marcel K. Bingham
Reg. No. 42,327

Dated: March 27, 2007

2055 Gateway Place, Suite 550
San Jose, CA 95110
Telephone No.: (408) 414-1080 ext.206
Facsimile No.: (408) 414-1076

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

on March 27, 2007 by Trudy Bagdon